

PORZIO, BROMBERG & NEWMAN, P.C.

156 West 56th Street
Suite 803
New York, NY 10019-3800
(212) 265-6888
(212) 957-3983 Facsimile
Warren J. Martin Jr., Esq.
Rachel A. Parisi, Esq.

Counsel for Abraham Lokshin, Naum Lokshin and A&N Funding Co. LLC

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

EAST VILLAGE PROPERTIES LLC, *et al.*,¹

Debtors.

Chapter 11

Case No.: 17-22453 (RDD)

(Jointly Administered)

**CERTIFICATION OF RACHEL A. PARISI, ESQ. IN SUPPORT OF
MOTION TO HOLD RAPHAEL TOLEDANO IN CONTEMPT OF
COURT PURSUANT TO FED. R. BANKR. P. 2004, 7004, 9016 AND FED.
R. CIV. P. 45(g)**

I, Rachel A. Parisi, Esq., hereby certify as follows:

1. I am an attorney with the law firm of Porzio, Bromberg & Newman, P.C. ("Porzio"), counsel to Abraham Lokshin, Naum Lokshin and A&N Funding Co. LLC (the "Lokshin Entities").

¹ The debtors ("Debtors") in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: East Village Properties LLC (1437); 223 East 5th Street LLC (8999); 229 East 5th Street LLC (8348); 231 East 5th Street LLC (4013); 233 East 5th Street LLC (8999); 235 East 5th Street LLC (1702); 228 East 6th Street (2965); 66 East 7th Street LLC (1812); 27 St Marks Place LLC (1789); 334 East 9th Street LLC (7903); 253 East 10th Street LLC (4317); 325 East 12th Street LLC (0625); 327 East 12th Street LLC (7195); 329 East 12th Street LLC (0475); 510 East 12th Street LLC (1469); and 514 East 12th Street LLC (7232).

2. I submit this certification in support of the Lokshin Entities' Motion to Hold Raphael Toledano in Contempt of Court Pursuant to Fed. R. Bankr. P. 2004, 7004, 9016 and Fed. R. Civ. P. 45(g).

3. On May 30, 2014, the Court entered an Order pursuant Rule 2004 of the Federal Rules of the Bankruptcy Procedure [Dkt. No. 92] (the "2004 Order") authorizing the Lokshin Entities to issue subpoenas (the "2004 Subpoenas") for the examination of East Village Properties LLC, *et al.*, GC Realty Advisors LLC, David Goldwasser, Yonah Halton, and Raphael Toledano. Raphael Toledano did not file a motion to quash the 2004 Subpoenas.

4. On June 1, 2017, the Porzio served a copy of the 2004 Order, application in support of same, and the 2004 Subpoenas with exhibits upon Raphael Toledano at 260 Central Avenue, Apt 224, Lawrence, NY 11559 (the "Lawrence NY Address"), which is the address provided by the Debtors in the "List of Equity Security Holders" filed in this case on April 26, 2017 [Dkt. No. 41]. Although not required by the 2004 Order, the documents were served via regular mail **and** via Federal Express Overnight for purposes of delivery confirmation. Porzio received confirmation of delivery of the 2004 Subpoenas to Mr. Toledano's listed address. *See* delivery confirmation of June 1 package, **Exhibit A** hereto.

5. By June 15, 2017, the Lokshin Entities had not received any production of documents or any other response from Toledano. Thus, on June 19, 2017, Porzio sent Toledano a letter to the Lawrence NY Address regarding his default, which also included a reminder about his scheduled deposition on June 29 and enclosed a check to cover Toledano's expenses for the deposition. *See* delivery confirmation of June 19 package, **Exhibit B** hereto.

6. Since Porzio did not hear back from Toledano after sending the June 19 letter, Porzio sent Toledano another follow up letter on June 26 via Federal Express Overnight

(enclosing all relevant documents, including the 2004 Subpoenas) at an address listed on one of Toledano's business web pages, raphaeltolledano.org—298 Fifth Avenue, New York, NY 10001. Federal Express, during an attempted delivery of the package, advised Porzio that Toledano and/or his business was not available or the business had otherwise moved or closed. *See* Federal Express notice regarding June 26 package, **Exhibit C** hereto.

7. Thereafter, on June 28, 2017, Porzio attempted to send the follow up letter to Toledano at a different address publicly listed as his place of business for Brookhill Properties—777 Third Avenue, 25th Floor, New York, NY 10017. Upon attempted delivery, Porzio's courier was informed by building security that Brookhill Properties had moved several weeks prior with no forwarding information.

8. Simultaneously, Porzio sent the follow up letter to Toledano's email addresses publicly listed on his various business websites. In response to these emails, Porzio received Toledano's personal email address.

9. Upon receipt of Toledano's email address on the afternoon of June 28, Porzio sent a copy of all documents related to the 2004 Subpoenas to Toledano, with a reminder about his deposition the next day. Toledano replied to Porzio's email, stating that he would not appear. *See* June 28 email correspondence with Toledano, **Exhibit D** hereto.

10. Notably, Toledano's signature block in his email stated that Brookhill Properties was in fact located at 777 Third Avenue, but on the 17th Floor, not the 25th Floor. Porzio contacted the courier service to find out if the June 28 package could be redirected from the 25th floor to the 17th floor. The courier informed Porzio that he had been advised by security that Brookhill had apparently moved from the building entirely. *See* Affidavit of Attempted Service, **Exhibit E** hereto.

11. On June 29, 2017, Porzio sent a follow up email to Toledano, advising him that service had been proper, that a motion for contempt would be filed shortly, and that his attorney (if retained) should contact Porzio immediately to avoid such motion practice. Porzio copied Debtors' counsel due to the fact that Toledano was denying that he was affiliated with the address listed by the Debtors just two months ago on the docket.

12. Debtors' counsel, Mr. Greene, responded to Porzio's email, stating that Toledano "is not at that address and has not been there for a while. He also stated to me he was not served." When Porzio inquired of Mr. Greene as to when the Debtors would amend the two month old listed address pursuant to Bankruptcy Rule 1007(i), neither Toledano nor the Debtors responded. *See* June 29 email correspondence with Toledano and Debtors' counsel, **Exhibit F** hereto.

13. As a final effort to contact Toledano via mail, on June 29, 2017, Porzio delivered all relevant documents to the address listed for Toledano's company, Brookhill Property Holdings LLC, as the "DOS Process" address with the NYS Department of State: 2329 Nostrand Avenue, Suite M300, Brooklyn, NY 11210. On June 30, 2017, Federal Express informed Porzio that the package was "refused by recipient." *See* Federal Express notice regarding June 29 package, **Exhibit G** hereto; *see also* Brookhill Property Holdings LLC's registration with NYS Department of State, **Exhibit H** hereto.

I hereby certify under penalty of perjury that the foregoing statements are true.

Dated: July 6, 2017

By: /s/Rachel A. Parisi
Rachel A. Parisi